

TO: Chief Elected Officials
Steering Committee

FROM: Craig E. Hartzer
Commissioner

DATE: November 4, 1999

SUBJECT: DWD Communication # 99-20
DWD Policy For Handling Complaints of Discrimination

RE: WIA Title 1

PURPOSE

To communicate the policy for handling complaints of discrimination.

RESCISSION

DWD Communication #W96P-4154

CONTENT

Section 188 of the Workforce Investment Act (WIA) prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title 1 financially assisted program or activity. Each Workforce Investment Board (WIB) Director is to develop and publish procedures for handling complaints of discrimination based on the following guidelines:

Who may file a complaint of discrimination under WIA Title 1?

Any person who believes that either s/he or any specific class of individuals has been or is being subjected to discrimination prohibited by WIA Title 1 may file a written complaint either by him/herself or through a representative.

Where may a complaint be filed?

Complaints may be filed directly with the Grant Recipient's office or with the Director, Civil Rights Center (CRC), U. S. Department of Labor, 200 Constitution Avenue N. W., Room N-4123, Washington, D. C. 20210.

When must a complaint be filed?

Complaints must be filed within 180 days of the alleged discrimination unless the Director of CRC grants a waiver of extension to the complainant.

When must a Notice of Final Action be provided?

Recipients must provide a decision to locally filed complaints within 60 days of receipt.

Complaint Procedures should provide for the following elements:

- ◆ A written complaint must be signed and dated by the complainant and include the complainant's name and address, the identity of the respondent, and a detailed description of the complainant's allegations.
- ◆ Recipients may use DWD Complaint Form # SF 45153 for complaints, or they may develop their own forms.
- ◆ Recipients are to provide a written acknowledgement of receipt of the complaint to the complainant. This acknowledgement letter should also include:
 1. A notice of the complainant's right to be represented in the complaint process;
 2. A list of the issues raised in the complaint, and for each issue a statement whether the recipient will accept the issue for investigation or reject the issue, and if rejected, the reasons for each rejection;
 3. The option of resolving the complaint by alternative dispute resolution (ADR) instead of an investigation;
 4. A statement that the complainant is due a decision or "Notice of Final Action" within 60 days after receipt of the complaint.
- ◆ The "Notice of Final Action" should advise that if the complainant is dissatisfied with the decision, s/he must appeal the local decision to the DWD EO Officer within 5 days of receipt of the decision. The DWD EO Officer will issue a response to the appeal within 25 days after receipt, or 90 days after the initial filing date of the complaint, whichever is later.

The Alternative Dispute Resolution (ADR) Process

The Regulations at 29 CFR 37.76 (c) provides that a recipient's complaint procedures must include an alternative dispute resolution or mediation process. This process should provide that:

- ◆ The complainant is given a choice whether to have the complaint resolved by an investigation or the ADR process.
- ◆ If the complainant elects the ADR process, the Recipient should provide the following:
 1. An impartial mediator who is trained in mediation techniques and the principles of equal opportunity;
 2. That both parties to the complaint must sign a consent form affirming that the contents of the mediation will be kept confidential and that both parties agree not to involve the mediator in any litigation;
 3. That any successful resolution obtained shall be recorded in a written settlement agreement and signed by both parties. There should be no written record or other recording made of the meeting;
 4. That if the parties cannot reach agreement under the ADR process, the complainant may file directly with the CRC (at the address provided herein) within 180 days of the alleged act of discrimination. In the event the agreement is breached, the non-breaching party may file the complaint directly with the CRC within 30 days of the date on which the non-breaching party learns of the alleged breach.

Recordkeeping Requirements

Complaint records must be retained for a minimum of 3 years following resolution of the complaint. All complaints, whether processed by investigation or mediation, must be entered on the DWD Complaint Log (SF 46001) which is to be submitted quarterly to DWD Attn: Legal Support, 10 North Senate Ave. Room SE105, Indianapolis, Indiana 46204. The logs to be submitted in January 2000 should include data for complaints filed during the months of October, November, and December 1999. The logs should contain the name and address of the complainant, the grounds for the complaint, a description of the complaint, the date the complaint was filed, and the disposition of the complaint.

The DWD EO Officer may be contacted for technical assistance by calling (317) 232-7484 or (317) 232-3268.

EFFECTIVE DATE

Upon receipt

ENDING DATE

Until Rescinded

ACTION

The information contained within must be disseminated to all WIA Title 1 recipients. Questions regarding the contents of this policy memorandum should be directed to Fay Stewart at (317) 232-7484.

CC: WIB Chairs
WIB Directors
Program Directors